

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JUST FILM, INC., et al.,

Plaintiffs,

v.

MERCHANT SERVICES, INC., et al.,

Defendants.

AND ALL RELATED CROSS-CLAIMS

No. C 10-1993 CW

ORDER GRANTING
PLAINTIFFS' EX PARTE
APPLICATION FOR
TEMPORARY
RESTRAINING ORDER,
GRANTING IN PART
DEFENDANT SKS
ASSOCIATES'S MOTION
TO ADJOURN RETURN
DATE AND ENLARGE
TIME, AND CONCERNING
BRIEFING ON
PLAINTIFFS' MOTION
FOR A PRELIMINARY
INJUNCTION
(Docket Nos. 227 and
231)

On March 22, 2011, Plaintiffs Just Film, Inc., et al., filed a motion for a preliminary injunction against Defendant SKS Associates. Because Plaintiffs set the motion for hearing on May 5, 2011, SKS's response is due April 14, 2011. On April 4, 2011, SKS moved to "adjourn the return date" for Plaintiffs' motion for a preliminary injunction and to extend its deadline to respond to Plaintiffs' motion to May 5, 2011. On April 6, 2011, Plaintiffs filed an ex parte application for a temporary restraining order (TRO) against SKS, seeking the same injunctive relief they request in their motion for a preliminary injunction. On April 7, 2011, SKS responded to Plaintiffs' application for a TRO.

Plaintiffs seek to enjoin SKS from withdrawing funds from Plaintiff Erin Campbell's and putative class members' bank accounts for fees and taxes they allegedly did not owe. Plaintiff Campbell

1 maintains that, on March 9, 2011, she received a letter from SKS
2 indicating that she owed "certain taxes and related fees" on her
3 lease with SKS's alleged predecessor-in-interest. Campbell Decl.
4 ¶ 3, Ex. A. That lease was terminated in June 2007. Shortly after
5 receiving the letter, SKS attempted to debit a bank account
6 previously held by Plaintiff; it was ultimately unsuccessful
7 because the bank account had been closed in 2007. Campbell
8 contacted SKS about its letter and attempted debit. Campbell was
9 told that the debit was for "unpaid taxes" and that, if she did not
10 pay, the charge would be referred to a collection agency and that
11 her credit report may be adversely impacted. Id. ¶ 5. SKS has not
12 substantiated the amount it asks Campbell to pay.

13 Plaintiffs' application for a TRO is GRANTED. (Docket No.
14 231.) Plaintiffs have sufficiently demonstrated that SKS is
15 withdrawing or attempting to withdraw funds to which it may not be
16 entitled from Plaintiff Erin Campbell's and putative class members'
17 bank accounts. Plaintiffs have also shown that SKS is threatening
18 Campbell and putative class members with taking adverse action
19 concerning their credit report. Further, Plaintiffs have
20 demonstrated that they may suffer irreparable harm from SKS's
21 conduct. SKS was apparently formed in March 11, 2011 and allegedly
22 is related to a set of shell companies operated by other Defendants
23 in this action. The failure to enjoin SKS may result in, among
24 other things, Plaintiffs' and putative class members' inability to
25 recover their funds at a later date. Plaintiffs have shown that
26 the balance of hardships tips in their favor. SKS's response to
27 Plaintiffs' application does not indicate that SKS will suffer any
28 hardship if a TRO were to enter. Further, the public interest

1 weighs in favor of temporarily enjoining SKS. The TRO will be
2 issued in a separate document.

3 The Court GRANTS in part SKS's motion to extend time to
4 respond to Plaintiffs' motion for a preliminary injunction.
5 (Docket No. 227.) SKS may respond to Plaintiffs' motion for a
6 preliminary injunction on April 28, 2011 so long as it stipulates
7 to extend the expiration date of the TRO to May 5, 2011. If SKS so
8 stipulates, Plaintiffs' reply in support of its motion for a
9 preliminary injunction shall be due May 2, 2011. A hearing on
10 Plaintiffs' motion for a preliminary injunction will be held on May
11 5, 2011 at 2:00 p.m.

12 If SKS declines to so stipulate, by April 12, 2011, SKS shall
13 show cause why a preliminary injunction should not enter. In that
14 event, Plaintiffs' reply in support of their motion for a
15 preliminary injunction would be due April 14, 2011, and the motion
16 would be heard on April 21, 2011 at 2:00 p.m.

17 IT IS SO ORDERED.

18
19 Dated: April 8, 2011



CLAUDIA WILKEN
United States District Judge